

REMARKS

Claims 1-27 and 29-38 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claim(s) 1-13, 15, 16, 21-23, 25-27 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is S; X^9 is CR^5 ; and X^{10} is a bond.

Group II, claim(s) 1-13, 16, 21, 25 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is O; X^9 is CR^5 ; and X^{10} is a bond.

Group III, claim(s) 1-14, 16, 17, 25-27 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is a bond; X^9 is CR^5 ; and X^{10} is NR^5 .

Group IV, claim(s) 1-14, 16, 18, 25 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is a bond; X^9 is CR^5 ; and X^{10} is O.

Group V, claim(s) 1-14, 16, 25 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is a bond; X^9 is CR^5 ; and X^{10} is S.

Group VI, claim(s) 1-14, 20, 24-27 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is a bond; X^9 is NR^5 ; and X^{10} is $(CR^5R^6)_2$.

Group VII, claim(s) 1-14, 16, 21, 25-27 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is a bond; X^9 is CR^5 ; and X^{10} is a bond.

Group VIII, claim(s) 1-14, 24, 25 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) where X^7 is N; X^8 is a bond; X^9 is NR^5 ; and X^{10} is a bond.

Group IX, claim(s) 1-27 and 29-38, drawn to the compounds, compositions and method of use of the compounds of formula (I) not embraced by Groups I-VIII outlined above.

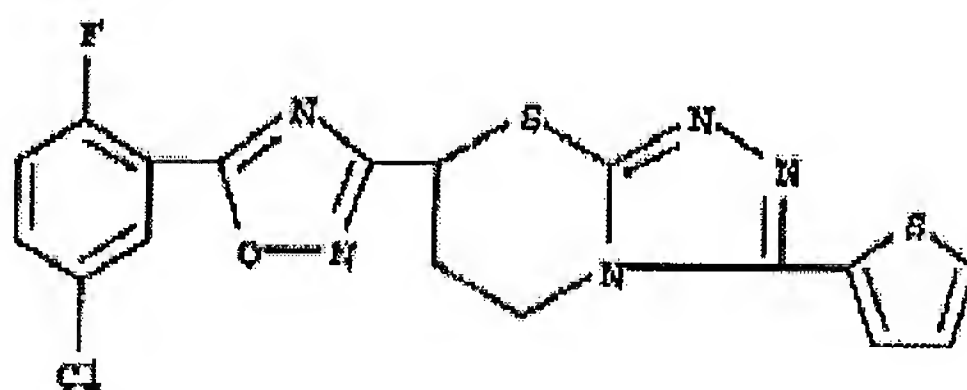
The Examiner contends that the inventions listed as Groups I-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The Examiner then concludes that the compounds of Groups I-VIII are directed to structurally dissimilar compounds and that one skilled in the art would not consider such diverse structures as functional equivalents of each other. But Applicants submit that the Examiner has incorrectly analyzed the invention under PCT Rule 13.1 ad 13.2.

According to PCT Rule 13.2, the requirement of unity is fulfilled if there is a technical relationship between the inventions that involves one or more special technical features, i.e. technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. The present application is directed to compounds having a central heterocyclic group to which a phenyl ring and a condensed ring are attached.

In the present application, Inventions I-IX, as grouped by the Examiner, all share said structural element, i.e. share a special technical feature. The Examiner has not cited any document that teaches the special technical feature. Therefore, Applicants submit that the present application fulfils the requirement of unity of invention. Accordingly, Applicants request reconsideration and rejoinder of the claims in all Restriction Groups.

However, in order to be in full compliance with 37 C.F.R. 1.143, Applicants elect, with traverse, Group I, Claims 1-13, 15, 15, 21-23, 25-27 and 29-38 and the following compound:
7-[5-(5-Chloro-2-fluorophenyl)-1,2,4-oxadiazol-3-yl]-3-(2-thienyl)-6,7-dihydro-5H-[1,2,4]triazolo[3,4-b][1,3]thiazine

Which has the following structure:



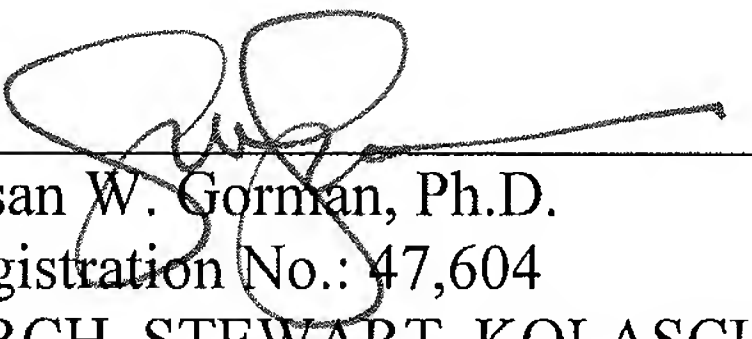
i.e. wherein
 R^1 is halo;
 R^2 is halo;
 X^1 is C;
 X^2 is N;
 X^3 is C;
 X^4 is N;
 X^5 is O;
 X^6 is bond;
 X^7 is N;
 X^8 is S;
 X^9 is CR^5 ;
 R^3 is hydrogen
 X^{10} is bond;
 X^6 is bond;
 R^3 is a 5-membered ring;
 and is exemplified in Example 25 of the present application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Susan W. Gorman, Registration No 47,604 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: February 15, 2008

Respectfully submitted,

By 
Susan W. Gorman, Ph.D.
Registration No.: 47,604
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant